

BOARD OF APPEALS CASE NO. 5088

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BEFORE THE

APPLICANTS: Christopher & Anne Rhodes

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ZONING HEARING EXAMINER

REQUEST: Variances for the existing dwelling and proposed deck to be located within the required setbacks; 403 Magnolia Ridge Drive, Joppa

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OF HARFORD COUNTY

Hearing Advertised

HEARING DATE: January 8, 2001

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Aegis: 11/29/00 & 12/6/00

Record: 12/1/00 & 12/8/00

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ZONING HEARING EXAMINER'S DECISION

The Applicants, Christopher E. and Anne M. Rhodes, are seeking a variance, pursuant to Section 267-36B, Table VI, of the Harford County Code, to allow an existing dwelling to be within the required 35 foot rear yard setback (30 feet requested) and a variance pursuant to Section 267-23C(1)(a)(6) of the Harford County Code to allow an attached deck to be within the required 26 foot rear yard setback (12 feet proposed) in an R3/Urban Residential District.

The subject parcel is located at 403 Magnolia Ridge Drive, Magnolia Farms and is more particularly identified on Tax map 69, Grid 1C, Parcel 138. The parcel consists of 8,223 square feet, is zoned R3/Urban Residential and is entirely within the First Election District.

Mr. Christopher Rhodes appeared and testified that he purchased the subject property believing he would be able to erect a small deck to the rear of the house. The home is a 2 story colonial and the rear sliding glass door is elevated above ground level like similar homes in the area. When he went to the Department of Planning and Zoning it was determined that the existing house was improperly placed on the lot and there was an existing encroachment into the rear yard setback, 35 feet required, 30 feet existing. The witness described the lot as pie shaped with 5 sides and 2 front yards. There are existing easements further reducing the building envelope on the lot. Because of the irregular shape of the lot and the existing setback lines that result from that shape, any deck conforming with Code requirements would be equally irregularly shaped and would, in the opinion of the witness, look "weird" and would adversely impact his use and enjoyment as well as potential resale value.

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The witness introduced photos of decks in his neighborhood similar in size and shape to the one he proposes. The witness further described the immediate vicinity of his home. There is a very large common area behind his home and several other homes. He plans fencing and vegetative screening. The witness did not feel that construction of the deck would in any way impact neighboring properties or the intent of the Harford County Code.

The Department of Planning and Zoning recommends approval of the subject request, finding that the lot is uniquely configured and that the house is diagonally positioned on the property as a result.

CONCLUSION:

Section 267-36B, Table VI, requires a 35 foot rear yard setback for dwelling and the existing home is only 30 feet.

Section 267-23C(1)(a)(6) provides:

“Unenclosed patios and decks: up to, but not to exceed, twenty-five percent (25%) of the side or rear yard requirement for the district. No accessory structure shall be located within any recorded easement area.”

The Harford County Code, pursuant to 267-11 permits variances and provides:

“Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest.”

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The Hearing Examiner finds that the lot is topographically unique. It has 5 sides, is pie shaped and is subject to 2 front yard setbacks. It backs up to a very large common area used by a number of neighboring properties. The lot is relatively small and is further constrained by the presence of several easements further reducing the buildable envelope. Because of the irregular shape, it is virtually impossible to build a rectangular shaped deck of any size without the need for a variance. The deck proposed will utilize a double sliding glass door already existing on the home. The proposed deck will be “L” shaped and will traverse the rear width of the existing home.

The Hearing Examiner finds that neither the minor encroachment of the existing home or proposed deck into the setback requirements will result in any adverse impact or materially impair the purpose of the Code or adversely impact neighboring properties. Decks are common in this neighborhood on similar homes. The existing common area to the rear of the home acts to lessen the need for strict conformance to rear yard setback requirements as the common area acts as sufficient additional buffer to offset the encroachment requested.

The Hearing Examiner, therefore, recommends approval of the request subject to the following:

1. The Applicant obtain any and all necessary permits and inspections.
2. The Applicant shall plant adequate vegetative screening between the deck and Lot 62.
3. The Applicant shall submit a landscaping plan to the Department of Planning and Zoning for review and approval.

Date JANUARY 26, 2001

William F. Casey
Zoning Hearing Examiner